

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gerolf Zimmermann et al.
Serial No: 10/540,215
Filed: 6/20/2005
Title: Method and Means for Determining Specific Conditions or
Changes in the Uterine Epithelium and in the Epithelium of other
Organs
Examiner: Suchira Pande
Art Unit: 1637

Commissioner for Patents
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

In response to the office action dated 4/26/2007, Applicant herewith elects **with traverse the group I (claims 31-46 and 61) drawn to the method** and as a species of group I elects further the **species b (claims 40-42)** drawn to the method for prospective or retrospective diagnosis for implantation of an embryo.

In regard to the sequence election, applicant elects:

- SEQ ID No. 1 and 2 as a primer pair;
- SEQ ID No. 3 as the third primer;
- SEQ ID No. 4 as the fourth primer.

Applicant traverses the required restriction for the following reasons. The examiner argues in the office action dated 4/26/2007 that *Policastro et al.* teaches the sequence claimed in the instant application as the primer SEQ ID NO. 3 and provides an alignment of the sequences on page 2 of the action showing supposedly a sequence between 371 and 393 of *Policastro et al.* that is identical to SEQ ID No 3. It is respectfully submitted that *Policastro et al.* in Fig. 5 shows the following sequence between 371 and 393:

AGGACCACCCCTTGACCTGTGAT

This is not SEQ ID No. 3; see sequence listing of the instant application. The sequence 371-393 of *Policastro et al.* is also not identical to any of the other sequences listed in the instant sequence listing.

Moreover, when searching the entire sequence provided in Fig. 5 there is nowhere a sequence matching SEQ ID No. 3. Moreover, even if the sequence of SEQ ID No. 3 were disclosed within a much larger sequence, merely the presence of this particular sequence cannot anticipate that the sequence is a primer for a specific amplification.

Examiner therefore has not proven the lack of same or corresponding special technical features. The restriction requirement is therefore improper and withdrawal is respectfully requested.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on May 25, 2007,

/Gudrun E. Hockett/

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